



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,492	06/08/2001	Henrik Aspe	452345/0007JJD/DLS	2252

7590

04/03/2003

STROOCK & STROOCK & LAVAN, LLP
180 Maiden Lane
New York, NY 10038

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 04/03/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,492

Applicant(s)

ASPE ET AL.

Examiner

Kathleen M Christman

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3713

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al (US 5879163). Regarding claims 1 and 5, Brown et al clearly teaches a method for remote education including the steps of: providing a plurality of lessons (the educational materials database), obtaining a profile for the student, the profile including at least one value describing an attribute of the student (Figure 1, 20) using the profile to select one of the lessons to be sent to the student (Figure 5), and sending the lesson to the student (Figure 8, 228). Regarding claim 2, updating of the student profile is taught in col. 11: 41-48. Regarding claim 3, the use of the Internet is taught in col. 6: 50.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3713

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (US 5879163). Brown teaches all elements of the claimed invention, as shown above with respect to claims 1 and 3, except for that information is transmitted securely through the network. It is the examiner's position that the use of encryption algorithms and other security measures are old and well-known in the art of computer communications. It would be obvious to one of ordinary skill in the art to implement these procedures with the Brown et al system so as to protect the privacy of the student (patient).

6. Claims 6-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (US 5879163, herein after the '163 reference) in view of Brown et al (US 2001/0016310 A1, herein after the '310 reference). Regarding claims 6 and 11, the '163 reference teaches a method for remote education of a student (patient) comprising the steps of: providing a plurality of lessons (the educational materials database); obtaining a profile for the student, the profile including at least one value describing an attribute of the student (figure 1, 20); using the profile to select one of the lessons to be sent to the student (Figure 5); sending the lesson selected to the student (Figure 8, 228). Regarding claim 12, the claim is a more limited scope of the limitations in claim 6, in particular in the restriction that the student is diabetic patient, that the preceptor is a health care provider, and that the lesson material concern a health issue of the diabetic patient, see col. 6: 10-29 for references to these terms. Regarding claim 13, the specific values associated with the user profile regarding medical conditions is generally referred to as "medical records" by the '163 reference, see col. 10: 37+. The ability to update a user profile (claim 14) is taught at col. 11; 41-48. Information exchanges occurring over the Internet (claim 8 and 16), is taught at col. 6: 50.

The '163 reference fails to teach the steps of: administering a quiz based on the lesson selected to the student; grading the quiz to obtain a quiz result; offering to inform the student of the quiz result; offering to inform a preceptor of at least one of a time spent by the student studying the lesson and the

Art Unit: 3713

quiz result (claims 6, 11, and 18). The '163 reference further fails to teach: updating a user profile based upon a quiz result (claims 7 and 19), alerting a healthcare provider when the value crosses a predetermined level (claim 15), statistically analyzing student performance (claim 10), effecting communication between the patient and the health care provider (claim 20) and the health care provider initially creating the profile (claim 21).

The '310 reference teaches each of these limitations. See paragraphs 12-43. Where the quiz is equivalent to the "questions for the student to answer" in paragraph 36.

It would be obvious to one of ordinary skill in the art to update the '163 reference with the direct interaction features, quiz and other special abilities of the '310 reference so as to provide a more robust method for aiding in the education of medical patients located remotely from their health care providers.

It is noted that neither the '163 nor the '310 reference teaches the use of secure communication (claims 9 and 17). It is the examiner's position that the use of encryption algorithms and other security measures are old and well known in the art of computer communications. It would be obvious to one of ordinary skill in the art to implement these procedures with the Brown et al system so as to protect the privacy of the student (patient).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Brown (US 5307263, US 5951300, US 6334778 B1, US 6375469 B1), teach various methods for educating a patient about their medical condition
 - b. Sloane et al (US 5813863) teaches a system and method for causing behavior modification in relation to a medical condition
 - c. Hitchcock et al (US 5823781) teaches an educational system which includes user profiles
 - d. Linton (US 6282404 B1) teaches an education system which includes the ability to make statistical reports to an administrators and includes security measures
 - e. Ho et al (US 6398556 B1) teaches a profile based education system


Art Unit: 3713


- f. Atkinson et al (US 6507726 B1) teaches a system which determines the educational material to be presented based upon a user profile

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Kathleen M. Christman
March 25, 2003


Joe H. Cheng
Primary Examiner